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HOUSE BILL 206  
47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005  
INTRODUCED BY  
Luciano "Lucky" Varela

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; CREATING ELECTRONIC REPORTING  
REQUIREMENTS FOR CERTAIN HOLDERS OF PROPERTIES PRESUMED  
ABANDONED; PERMITTING THE TAXATION AND REVENUE DEPARTMENT TO  
SELL BY REASONABLE METHOD PROPERTIES PRESUMED ABANDONED;  
EXTENDING THE TIME PERIOD DURING WHICH AN AGREEMENT TO RECOVER  
PROPERTY IS VALID; MAKING A CORRECTION TO THE SCOPE OF THE  
UNIFORM UNCLAIMED PROPERTY ACT (1995).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-8A-7 NMSA 1978 (being Laws 1997,  
Chapter 25, Section 7) is amended to read:

"7-8A-7. REPORT OF ABANDONED PROPERTY. --

(a) A holder of property presumed abandoned shall  
make a report to the administrator concerning the property.

(b) The report must be verified and must contain:

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- 1 (1) a description of the property;
- 2 (2) except with respect to a traveler's check
- 3 or money order, the name, if known, and last known address, if
- 4 any, and the social security number or taxpayer identification
- 5 number, if readily ascertainable, of the apparent owner of
- 6 property of the value of fifty dollars (\$50.00) or more;
- 7 (3) an aggregated amount of items valued under
- 8 fifty dollars (\$50.00) each;
- 9 (4) in the case of an amount of fifty dollars
- 10 (\$50.00) or more held or owing under an annuity or a life or
- 11 endowment insurance policy, the full name and last known
- 12 address of the annuitant or insured and of the beneficiary;
- 13 (5) in the case of property held in a safe
- 14 deposit box or other safekeeping depository, an indication of
- 15 the place where it is held and where it may be inspected by the
- 16 administrator and any amounts owing to the holder;
- 17 (6) the date, if any, on which the property
- 18 became payable, demandable or returnable and the date of the
- 19 last transaction with the apparent owner with respect to the
- 20 property; and
- 21 (7) other information that the administrator
- 22 by rule prescribes as necessary for the administration of the
- 23 Uniform Unclaimed Property Act (1995).
- 24 (c) If a holder of property presumed abandoned is a
- 25 successor to another person who previously held the property

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1 for the apparent owner or the holder has changed its name while  
2 holding the property, the holder shall file with the report its  
3 former names, if any, and the known names and addresses of all  
4 previous holders of the property.

5 (d) The report must be filed before November 1 of  
6 each year and cover the twelve months next preceding July 1 of  
7 that year, but a report with respect to a life insurance  
8 company must be filed before May 1 of each year for the  
9 calendar year next preceding.

10 (e) A holder of more than twenty-five properties  
11 presumed abandoned shall report the properties in an electronic  
12 media and in a format determined by the administrator to be  
13 compatible with computer programming and equipment used by the  
14 administrator for processing.

15 [~~e~~] (f) The holder of property presumed abandoned  
16 shall send written notice to the apparent owner, not more than  
17 one hundred twenty days or less than sixty days before filing  
18 the report, stating that the holder is in possession of  
19 property subject to the Uniform Unclaimed Property Act (1995),  
20 if:

21 (1) the holder has in its records an address  
22 for the apparent owner which the holder's records do not  
23 disclose to be inaccurate;

24 (2) the claim of the apparent owner is not  
25 barred by a statute of limitations; and

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1 (3) the value of the property is fifty dollars  
2 (\$50.00) or more.

3 [~~(f)~~] (g) Before the date for filing the report,  
4 the holder of property presumed abandoned may request the  
5 administrator to extend the time for filing the report. The  
6 administrator may grant the extension for good cause. The  
7 holder, upon receipt of the extension, may make an interim  
8 payment on the amount the holder estimates will ultimately be  
9 due, which terminates the accrual of additional interest on the  
10 amount paid.

11 [~~(g)~~] (h) The holder of property presumed abandoned  
12 shall file with the report an affidavit stating that the holder  
13 has complied with Subsection [~~(e)~~] (f) of this section."

14 Section 2. Section 7-8A-12 NMSA 1978 (being Laws 1997,  
15 Chapter 25, Section 12) is amended to read:

16 "7-8A-12. PUBLIC SALE OF ABANDONED PROPERTY. --

17 (a) Except as otherwise provided in this section,  
18 the administrator, within three years after the receipt of  
19 abandoned property, shall sell it to the highest bidder at  
20 public sale at a location in [~~the~~] this state or by any  
21 reasonable method, which in the judgment of the administrator  
22 affords the most favorable market for the property. The  
23 administrator may decline the highest bid and re-offer the  
24 property for sale if the administrator considers the bid to be  
25 insufficient. The administrator need not offer the property

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1 for sale if the administrator considers that the probable cost  
2 of sale will exceed the proceeds of the sale. A sale held  
3 under this section must be preceded by a single publication of  
4 notice, at least three weeks before sale, in a newspaper of  
5 general circulation in the county in which the property is to  
6 be sold.

7 (b) Securities listed on an established stock  
8 exchange must be sold at prices prevailing on the exchange at  
9 the time of sale. Other securities may be sold over the  
10 counter at prices prevailing at the time of sale or by any  
11 reasonable method selected by the administrator. If securities  
12 are sold by the administrator before the expiration of three  
13 years after their delivery to the administrator, a person  
14 making a claim under the Uniform Unclaimed Property Act (1995)  
15 before the end of the three-year period is entitled to the  
16 proceeds of the sale of the securities or the market value of  
17 the securities at the time the claim is made, whichever is  
18 greater, plus dividends, interest and other increments thereon  
19 up to the time the claim is made, less any deduction for  
20 expenses of sale. A person making a claim under the Uniform  
21 Unclaimed Property Act (1995) after the expiration of the  
22 three-year period is entitled to receive the securities  
23 delivered to the administrator by the holder, if they still  
24 remain in the custody of the administrator, or the net proceeds  
25 received from sale and is not entitled to receive any

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1 appreciation in the value of the property occurring after  
2 delivery to the administrator except in a case of intentional  
3 misconduct or malfeasance by the administrator.

4 (c) A purchaser of property at a sale conducted by  
5 the administrator pursuant to the Uniform Unclaimed Property  
6 Act (1995) takes the property free of all claims of the owner  
7 or previous holder and of all persons claiming through or under  
8 them. The administrator shall execute all documents necessary  
9 to complete the transfer of ownership. "

10 Section 3. Section 7-8A-25 NMSA 1978 (being Laws 1997,  
11 Chapter 25, Section 25) is amended to read:

12 "7-8A-25. AGREEMENT TO LOCATE PROPERTY. --

13 (a) An agreement by an owner, the primary purpose  
14 of which is to locate, deliver, recover or assist in the  
15 recovery of property that is presumed abandoned, is void and  
16 unenforceable if it was entered into during the period  
17 commencing on the date the property was presumed abandoned and  
18 extending to a time that is [~~twenty-four~~] forty-eight months  
19 after the date the property is paid or delivered to the  
20 administrator. This subsection does not apply to an owner's  
21 agreement with an attorney to file a claim as to identified  
22 property or contest the administrator's denial of a claim.

23 (b) An agreement by an owner, the primary purpose  
24 of which is to locate, deliver, recover or assist in the  
25 recovery of property, is enforceable only if the agreement is

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1 in writing, clearly sets forth the nature of the property and  
2 the services to be rendered, is signed by the apparent owner  
3 and states the value of the property before and after the fee  
4 or other compensation has been deducted.

5 (c) If an agreement covered by this section applies  
6 to mineral proceeds and the agreement contains a provision to  
7 pay compensation that includes a portion of the underlying  
8 minerals or any mineral proceeds not then presumed abandoned,  
9 the provision is void and unenforceable.

10 (d) An agreement covered by this section which  
11 provides for compensation that is unconscionable is  
12 unenforceable except by the owner. An owner who has agreed to  
13 pay compensation that is unconscionable or the administrator on  
14 behalf of the owner may maintain an action to reduce the  
15 compensation to a conscionable amount. The court may award  
16 reasonable ~~[attorney's]~~ attorney fees to an owner who prevails  
17 in the action.

18 (e) This section does not preclude an owner from  
19 asserting that an agreement covered by this section is invalid  
20 on grounds other than unconscionable compensation. "

21 Section 4. Section 7-8A-30 NMSA 1978 (being Laws 1997,  
22 Chapter 25, Section 30) is amended to read:

23 "7-8A-30. SHORT TITLE. -- ~~[This act]~~ Chapter 7, Article 8A  
24 NMSA 1978 may be cited as the "Uniform Unclaimed Property Act  
25 (1995)". "

